

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SANDRA BREI	)	
	)	Civil Action No. 1:16-CV-241
Plaintiff,	)	
	)	Judge
v.	)	
	)	
TIMOTHY FULLERTON, D.O., d/b/a	)	
MERCER PRIMARY CARE, PRIMARY	)	
HEALTH NETWORK and	)	
DIANA KEISEL, LPN	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

1. Removal of this action is pursuant to 42 U.S.C. §§ 233(c), 28 U.S.C. § 2679(d)(2) in that Timothy Fullerton, d/b/a Mercer Primary Care, Primary Health Network and Diana Keisel, an agent of the United States of America, have been named as party defendants in this action.
  
2. On or about June 10, 2016, Plaintiff filed a complaint in the Crawford County Court of Common Pleas at Number GD-AD-2016-368, against Timothy Fullerton, d/b/a Mercer Primary Care, Primary Health Network and Diana Keisel.
  
3. No trial or other proceeding in the Crawford County Court of Common Pleas has commenced in the civil action.

4. A true and correct copy of the complaint received by Timothy Fullerton, d/b/a Mercer Primary Care, Primary Health Network and Diana Keisel in said civil action is attached hereto and marked Exhibit “A.”<sup>1</sup>

5. In the above-described action, Plaintiff is seeking damages against defendants for alleged injuries resulting from an ear wax removal procedure on Plaintiff. The procedure occurred on or about July 16, 2014 and Plaintiff avers she suffered permanent ear injuries. Timothy Fullerton, d/b/a Mercer Primary Care, Primary Health Network and Diana Keisel are employees of the United States Department of Health and Human Services. At all times relevant to the allegations in the above-described action, Timothy Fullerton, d/b/a Mercer Primary Care, Primary Health Network and Diana Keisel were acting within the scope of their employment as employees for the United States Department of Health and Human Services. *See* Certification of Scope of Employment, attached hereto as Exhibit “B.”

6. The above-described civil action may be removed to this Court without bond pursuant to 42 U.S.C. § 233(c) and 28 U.S.C. § 2679(d)(2).

Respectfully submitted,

DAVID J. HICKTON  
United States Attorney

/s/ Jennifer R. Andrade  
JENNIFER R. ANDRADE  
Assistant U.S. Attorney  
Western District of PA  
U.S. Post Office and Courthouse  
Pittsburgh, PA 15219  
(412) 894-7354

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<sup>1</sup> Service of process in accordance with Fed. R. Civ. P. 4 has not been made on the U.S. Attorney’s Office, the U.S. Attorney General, or the U.S. Department of Health and Human Services.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within *Notice of Removal* was served  
by mail upon the following:

Emmy Arnett, Prothonotary  
Crawford County Prothonotary  
9903 Diamond Park Square  
Meadville, PA 16335

Dominic D. Salvatori, Esquire  
310 Chestnut Street  
Suite 101  
Meadville, PA 16335

Date: October 7, 2016

/s/ Jennifer R. Andrade  
Jennifer R. Andrade  
Assistant U.S. Attorney